

1 RONALD J. TENPAS  
Acting Assistant Attorney General  
2 Environment & Natural Resources Division  
United States Department of Justice

3 KARL J. FINGERHOOD (PA Bar No. 63260)  
4 Environmental Enforcement Section  
Environment & Natural Resources Division  
5 United States Department of Justice  
P.O. Box 7611  
6 Washington, D.C. 20044  
Telephone: (202) 514-7519  
7 (202) 305-0455  
Telefax: (202) 514-2583  
8 [karl.fingerhood@usdoj.gov](mailto:karl.fingerhood@usdoj.gov)

9 THOMAS P. O'BRIEN  
10 United States Attorney for the  
Central District of California

11 MONICA L. MILLER (CA Bar No. 157695)  
12 Assistant U.S. Attorney  
300 North Los Angeles Street  
13 Los Angeles, CA 90012  
Telephone: (213) 894-2442  
14 Telefax: (213) 894-7819  
15 [monica.miller@usdoj.gov](mailto:monica.miller@usdoj.gov)

16 IN THE UNITED STATES DISTRICT COURT  
17 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

18 UNITED STATES OF AMERICA,  
19 THE CALIFORNIA DEPARTMENT  
OF TOXIC SUBSTANCES  
20 CONTROL, DEPARTMENT OF  
21 FISH AND GAME, AND CENTRAL  
COAST REGIONAL WATER  
22 QUALITY CONTROL BOARD,

23 Plaintiffs,

24 v.

25 POWERINE OIL COMPANY,  
26 CENCO REFINING COMPANY,  
27 and ENERGY MERCHANT CORP.,

28 Defendants.

Civil No: CV04-6435 CBM (JWJx)

**CONSENT DECREE**

## TABLE OF CONTENTS

1		
2	I. <u>BACKGROUND</u> .....	1
3	II. <u>JURISDICTION</u> .....	4
4	III. <u>PARTIES BOUND</u> .....	4
5	IV. <u>DEFINITIONS</u> .....	4
6	V. <u>PAYMENT OF EPA RESPONSE COSTS</u> .....	9
7	VI. <u>PAYMENT OF STATE PLAINTIFFS' RESPONSE COSTS AND</u>	
8	<u>STATE NATURAL RESOURCE DAMAGES</u> .....	11
9	VII. <u>FAILURE TO COMPLY WITH CONSENT DECREE</u> .....	14
10	VIII. <u>COVENANT NOT TO SUE BY UNITED STATES</u> .....	18
11	IX. <u>RESERVATIONS OF RIGHTS BY UNITED STATES</u> .....	19
12	X. <u>COVENANT NOT TO SUE BY STATE PLAINTIFFS</u> .....	21
13	XI. <u>RESERVATION OF RIGHTS BY STATE PLAINTIFFS</u> .....	22
14	XII. <u>COVENANT NOT TO SUE BY SETTLING DEFENDANTS</u> .....	24
15	XIII. <u>FURTHER EFFECT OF SETTLEMENT/</u>	
16	<u>CONTRIBUTION PROTECTION</u> .....	27
17	XIV. <u>RETENTION OF RECORDS</u> .....	29
18	XV. <u>NOTICES AND SUBMISSIONS</u> .....	30
19	XVI. <u>RETENTION OF JURISDICTION</u> .....	32
20	XVII. <u>EFFECTIVE DATE</u> .....	32
21	XVIII. <u>INTEGRATION/APPENDICES</u> .....	32
22	XIX. <u>LODGING AND OPPORTUNITY FOR PUBLIC COMMENT</u> .....	33
23	XX. <u>SIGNATORIES/SERVICE</u> .....	33
24	XXI. <u>FINAL JUDGMENT</u> .....	34
25		
26		
27		
28		

## 1

2

15

24

1 D. Powerine and CENCO Refining are subject to a Cleanup and Abatement  
2 Order (Order No. 97-118) issued by the Los Angeles Regional Water Quality  
3 Control Board, and a state court injunction, obtained by the Community  
4 Development Commission of the City of Santa Fe Springs, and entered April 14,  
5 2004 (Case No. VC 03890, Los Angeles County Superior Court), requiring  
6 remediation of their former oil refinery property, located at 1234 Lakeland Road,  
7 Santa Fe Springs, California.

8 E. On October 14, 1998, EPA sent Powerine a notice letter indicating that  
9 Powerine was liable as a *de minimis* party at the Casmalia Resources Superfund  
10 Site ("the Casmalia Site"), located at NTU Rd-539 San Ysidro Blvd., Casmalia,  
11 California.

12 F. As a result of the release or threatened release of hazardous substances at  
13 or near the WDI Site, the State of California Department of Toxic Substances  
14 Control ("DTSC") has undertaken response actions at or in connection with the  
15 WDI Site pursuant to state and federal law, and will undertake response actions in  
16 the future. DTSC is a support agency to EPA with respect to the WDI Site.

17 G. As a result of the release or threatened release of hazardous substances  
18 at or near the Casmalia Site, DTSC, the Regional Water Quality Control Board for  
19 the Central Coast Region (the "Regional Board"), and the Department of Fish and  
20 Game ("DFG") have undertaken response actions at or in connection with the  
21 Casmalia Site pursuant to state and federal law, and will undertake response  
22 actions in the future. DTSC, the Regional Board and DFG are support agencies to  
23 EPA with respect to the Casmalia Site.

24 H. Information currently known to DFG indicates the presence of one or  
25 more state natural resources at or near the Casmalia Site which may have been, or  
26 which may be, injured by release(s) of hazardous substances. DFG is the state  
27 agency authorized to act on behalf of the public as a trustee for the natural  
28 resources within California. DFG has claimed Natural Resource Damages at the

1 Casmalia Site, including response costs incurred by the DFG prior to October 1,  
2 1999.

3 I. As a result of the release or threatened release of hazardous substances at  
4 or near the OII Site, DTSC has undertaken response actions at or in connection  
5 with the OII Site pursuant to state and federal law, and will undertake response  
6 actions in the future.

7 J. DTSC, DFG, and the Regional Board (collectively the "State Plaintiffs")  
8 have concurrently filed a complaint against the Powerine, CENCO and EMC  
9 (collectively referred to as "Settling Defendants") alleging that the Settling  
10 Defendants are liable to the State Plaintiffs under Section 107(a) of CERCLA, 42  
11 U.S.C. § 9607(a), for response costs incurred or to be incurred by the State  
12 Plaintiffs at the WDI Site, OII Site, and the Casmalia Site, and for Natural  
13 Resource Damages at the Casmalia Site. DFG has also asserted a claim for  
14 Natural Resource Damages with respect to the Casmalia Site under 42 U.S.C.  
15 section 107(f), 42 U.S.C. § 9607(f).

16 K. Settling Defendants submitted Financial Information to the United  
17 States and gave permission for the United States to share the Financial Information  
18 with the State Plaintiffs. The United States and the State Plaintiffs have reviewed  
19 the Financial Information to determine whether Settling Defendants are financially  
20 able to pay response costs incurred and to be incurred at the WDI, OII, and  
21 Casmalia Sites. Based upon this Financial Information, the United States has  
22 determined that Settling Defendants are able to pay the amounts specified in  
23 Section V. The State Plaintiffs have determined that Settling Defendants are able  
24 to pay the amounts specified in Section VI.

25 L. Settling Defendants that have entered into this Consent Decree do not  
26 admit any liability to the United States arising out of the transactions or  
27 occurrences alleged in the complaint, or described in the special notice letters  
28 regarding the OII and Casmalia Sites.

1 M. The United States, State Plaintiffs, and Settling Defendants agree, and  
2 this Court by entering this Consent Decree finds, that this Consent Decree has  
3 been negotiated by the Parties in good faith, that settlement of this matter will  
4 avoid prolonged and complicated litigation between the Parties, and that this  
5 Consent Decree is fair, reasonable, and in the public interest.

6 THEREFORE, with the consent of the Parties to this Decree, it is  
7 ORDERED, ADJUDGED, and DECREED:

## 8 **II. JURISDICTION**

9 1. This Court has jurisdiction over the subject matter of this action  
10 pursuant to 28 U.S.C. §§ 1331 and 1345 and 42 U.S.C. §§ 9606, 9607 and 9613(b)  
11 and also has personal jurisdiction over Settling Defendants. Solely for the  
12 purposes of this Consent Decree and the underlying complaint, Settling  
13 Defendants waive all objections and defenses that they may have to jurisdiction of  
14 the Court or to venue in this District. Settling Defendants shall not challenge the  
15 terms of this Consent Decree or this Court's jurisdiction to enter and enforce this  
16 Consent Decree.

## 17 **III. PARTIES BOUND**

18 2. This Consent Decree is binding upon the United States, the State  
19 Plaintiffs, and upon Settling Defendants and their successors and assigns. Any  
20 change in ownership or corporate or other legal status, including but not limited  
21 to, any transfer of assets or real or personal property, shall in no way alter the  
22 status or responsibilities of Settling Defendants under this Consent Decree.

## 23 **IV. DEFINITIONS**

24 3. Unless otherwise expressly provided herein, terms used in this Consent  
25 Decree that are defined in CERCLA or in regulations promulgated under  
26 CERCLA shall have the meanings assigned to them in CERCLA or in such  
27 regulations. Whenever terms listed below are used in this Consent Decree or in  
28 any appendix attached hereto, the following definitions shall apply:

1           a. "Casmalia Site" shall mean the former Casmalia Resources  
2 Hazardous Waste Management Facility, encompassing approximately 252 acres,  
3 located at NTU Rd-539 San Ysidro Blvd., approximately ten (10) miles southwest  
4 of Santa Maria and one and a half miles north of Casmalia in Santa Barbara  
5 County, California, and depicted generally on the map attached at Appendix C.  
6 Casmalia Site shall also include the areal extent of contamination that is presently  
7 located in the vicinity of the Casmalia facility and all suitable areas in very close  
8 proximity to the contamination necessary for the implementation of the response  
9 action(s) and any areas to which such contamination migrates.

10           b. "Casmalia Site Escrow Account" shall mean the escrow account  
11 for the Casmalia Site, which was established pursuant to the Consent Decree  
12 entered by the United States District Court for the Central District of California on  
13 June 27, 1997, in *United States of America v. ABB Vetco Gray Inc., et al.*, Civ. No.  
14 CV 96-6518-KMW (JGx). The Casmalia Site Escrow Account holds money  
15 collected, inter alia, from settlements and enforcement activities undertaken by  
16 EPA related to the Casmalia Site, and which shall be used for response actions at  
17 and concerning the Casmalia Site.

18           c. "CERCLA" shall mean the Comprehensive Environmental  
19 Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C.  
20 § 9601, *et seq.*

21           d. "Consent Decree" shall mean this Consent Decree and all  
22 appendices attached hereto. In the event of conflict between this Consent Decree  
23 and any appendix, the Consent Decree shall control.

24           f. "Day" shall mean a calendar day. In computing any period of time  
25 under this Consent Decree, where the last day would fall on a Saturday, Sunday, or  
26 federal holiday, the period shall run until the close of business of the next working  
27 day.

28

1 g. "DFG" shall mean the California Department of Fish and Game  
2 and any successor entity.

3 h. "DTSC" shall mean the California Department of Toxic Substances  
4 Control and any successor entity.

5 i. "DOJ" shall mean the United States Department of Justice and any  
6 successor departments, agencies or instrumentalities of the United States.

7 j. "EPA" shall mean the United States Environmental Protection  
8 Agency and any successor departments, agencies or instrumentalities of the United  
9 States.

10 k. "EPA Hazardous Substance Superfund" shall mean the Hazardous  
11 Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

12 l. "EPA Past Response Costs" shall mean all costs, including but not  
13 limited to direct and indirect costs, that EPA, or DOJ on behalf of EPA, has paid at  
14 or in connection with the WDI Site, the OII Site, or the Casmalia Site through the  
15 date of entry of this Consent Decree, plus accrued Interest on all such costs  
16 through such date.

17 m. "Financial Information" shall mean those financial documents  
18 identified in Appendix D.

19 n. "Interest" shall mean interest at the rate specified for interest on  
20 investments of the EPA Hazardous Substance Superfund established by 26 U.S.C.  
21 § 9507, compounded annually on October 1 of each year, in accordance with 42  
22 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the  
23 time the interest accrues. The rate of interest is subject to change on October 1 of  
24 each year.

25 o. "Natural Resource Damages" or "NRD" means damages, including  
26 costs of damages assessment, recoverable under section 107 of CERCLA, 42  
27 U.S.C. section 9607, and applicable provisions of State law, for injury to,  
28 destruction of, or loss of any and all natural resources at the Casmalia Site.



1 p. "OII Site" shall mean the Operating Industries Inc. Superfund Site,  
2 located at 900 Potrero Grande Drive, in the City of Monterey Park, Los Angeles  
3 County, California, generally shown on the map included in Appendix B.

4 q. "OII Special Account" shall mean the special account established at the  
5 OII Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C.  
6 §9622(b)(3), within the EPA Hazardous Substance Superfund.

7 r. "Paragraph" shall mean a portion of this Consent Decree identified  
8 by an Arabic numeral or an upper or lower case letter.

9 s. "Parties" shall mean the United States, State Plaintiffs, and Settling  
10 Defendants.

11 t. "Plaintiffs" shall mean the United States and the State Plaintiffs.

12 u. "Regional Board" shall mean the California Regional Water  
13 Quality Control Board for the Central Coast Region, and any successor entity.

14 v. "Section" shall mean a portion of this Consent Decree identified  
15 by a Roman numeral.

16 w. "Settling Defendants" shall mean Powerine Oil Company  
17 ("Powerine"), CENCO Refining Company (n/k/a/ Lakeland Development  
18 Company ("CENCO")), and Energy Merchant Corp. ("EMC").

19 x. "State Natural Resource Damages Claim" shall mean the claim for  
20 Natural Resources Damages asserted by DFG and the amount of Natural Resource  
21 Damages for the Casmalia Site that DFG has estimated as its current or future  
22 claim for the purposes of this Consent Decree only. That current claim is sixteen  
23 million dollars (\$ 16,000,000).

24 y. "State Plaintiffs" shall mean DTSC, DFG, and the Regional  
25 Board.

26 z. "State Plaintiffs' Response Costs" shall mean all costs, including  
27 but not limited to direct and indirect costs, that any of the State Plaintiffs has  
28

1 incurred or will incur at or in connection with the WDI Site, the OII Site, or the  
2 Casmalia Site, plus accrued Interest on all such costs.

3           aa. "State Statutes" shall mean the California Health and Safety  
4 Code, sections 25300 et seq., and 25189.1; the Porter-Cologne Water Quality  
5 Control Act, California Water Code sections 13000 et seq.; the California Fish and  
6 Game Code, sections 5650, 5650.1, 2014, 711.7 and 12016; the California  
7 Government Code, sections 8670.56.5 and 8670.61.5; and state nuisance and  
8 trespass laws.

9           bb. "Waste Material" shall mean (1) any "hazardous substance"  
10 under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any "pollutant or  
11 contaminant" under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any  
12 "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4)  
13 any "hazardous substance" under California Health and Safety Code §§ 25316 and  
14 25317.

15           cc. "WDI Remedial Action" shall mean those activities, except for  
16 operation and maintenance, to be undertaken by the WDIG to implement the  
17 Amended Record of Decision at the WDI Site, in accordance with the Statement of  
18 Work and the final Remedial Design and Remedial Action Work Plans and other  
19 plans approved by EPA.

20           dd. "WDI Site" shall mean the Waste Disposal, Inc. Superfund Site,  
21 encompassing approximately 38 acres, located at 12731 E. Los Nietos Rd., in  
22 Santa Fe Springs, Los Angeles County, California, and generally shown on the  
23 map included in Appendix A.

24           ee. "WDI Special Account" shall mean the special account  
25 established at the WDI Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42  
26 U.S.C. §9622(b)(3), within the EPA Hazardous Substance Superfund.

27           ff. "United States" shall mean the United States of America,  
28 including its departments, agencies and instrumentalities.

1                                    **V. PAYMENT OF EPA RESPONSE COSTS**

2            4.    Payment of EPA Past Response Costs. Settling Defendants shall pay  
3 \$1,450,000, plus Interest, pursuant to the following schedule:

4                    a. Within ninety days of entry of this Consent Decree, Settling  
5 Defendants shall pay \$806,606.00 which shall be deposited in the WDI Special  
6 Account within the EPA Hazardous Substance Superfund to be retained and used  
7 to conduct or finance response actions at or in connection with the WDI Site, or to  
8 be transferred by EPA to the EPA Hazardous Substance Superfund;

9                    b. Within ninety days of entry of this Consent Decree Settling  
10 Defendants shall pay \$100,000.00 which shall be deposited in the OII Special  
11 Account within the EPA Hazardous Substance Superfund to be retained and used  
12 to conduct or finance response actions at or in connection with the OII Site, or to  
13 be transferred by EPA to the EPA Hazardous Substance Superfund;

14                   c. Within ninety days of entry of this Consent Decree Settling  
15 Defendants shall pay \$93,394.00 which shall be deposited in the Casmalia Site  
16 Escrow Account;

17                   d. Within 150 days of entry of this Consent Decree Settling  
18 Defendants shall pay \$225,000.00, plus Interest from the date of entry, which shall  
19 be deposited in the WDI Special Account within the EPA Hazardous Substance  
20 Superfund to be retained and used to conduct or finance response actions at or in  
21 connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous  
22 Substance Superfund; and

23                   e. Within 210 days of entry of this Consent Decree Settling  
24 Defendants shall pay \$225,000.00, plus Interest from the date of entry, which shall  
25 be deposited in the WDI Special Account within the EPA Hazardous Substance  
26 Superfund to be retained and used to conduct or finance response actions at or in  
27 connection with the WDI Site, or to be transferred by EPA to the EPA Hazardous  
28 Substance Superfund.

1        5.    Payments of EPA Past Response Costs for WDI and OII Sites.

2 Payments by Settling Defendants to EPA for the WDI and OII Sites shall be made  
3 by FedWire Electronic Funds Transfer ("EFT") to the U.S. Department of Justice  
4 account in accordance with EFT instructions provided to Settling Defendants by  
5 the Financial Litigation Unit of the U.S. Attorney's Office in the Central District  
6 of California following lodging of the Consent Decree.

7        6.    At the time of each payment to EPA, Settling Defendants shall also  
8 send notice that payment has been made to EPA and DOJ in accordance with  
9 Section XV (Notices and Submissions). Such notice shall specify the amount(s)  
10 remitted and reference the EPA Region, DOJ Case number, Site/Spill  
11 Identification Number and the Civil Action Number. For the WDI Site those  
12 numbers, respectively, are EPA Region 9, SSID - 09FY, DOJ case number 90-11-  
13 2-156/13, and civil action number CV04-6435 CBM (JWJx). For the OII Site  
14 those numbers, respectively, are EPA Region 9, SSID - 0958, DOJ case number  
15 90-11-2-156/12, and civil action number CV01-11162 MMM (JWJx).

16        7.    Payment of EPA Past Response Costs to Casmalia Site Escrow  
17 Account. Within 90 days of entry of this Consent Decree, Settling Defendants  
18 shall remit the payment to the Casmalia Site Escrow Account by wiring  
19 \$93,394.00 to the following:

20                   Wells Fargo Bank c/o Marco X. Morales  
21                   MAC N9303-120  
22                   Sixth and Marquette, Minneapolis, MN 55479  
23                   ABA/Locator#: 121000248  
24                   Bnf Account #: 0001038377  
25                   Bnf Account Name: Corporate Trust Clearing  
26                   OBI Field: Casmalia Cash Account #15924200  
27                   REF: Casmalia Resources Site Custodial Agreement  
28                   Payor: the name of the Settling Party exactly as it appears on  
                     the signatory page, below.

Any payments received by the Casmalia Site Escrow Account after 5:00 p.m.  
Pacific Time will be credited on the next business day.

8.    At the time this payment to the Casmalia Escrow Account is made,  
Settling Defendants shall send notice that payment has been made to EPA and

1 DOJ in accordance with Section XV (Notices and Submissions). Settling  
2 Defendants shall also send a copy of the completed Payment Invoice to:

3 Casmalia Case Team  
4 U.S. EPA Region IX  
5 75 Hawthorne Street (SFD-7)  
6 San Francisco, California 94105-3901

7 **VI. PAYMENT OF STATE PLAINTIFFS' RESPONSE COSTS AND**  
8 **STATE NATURAL RESOURCE DAMAGES**

9 9. Settling Defendants shall pay to the State Plaintiffs a total of \$40,000,  
10 pursuant to the following schedule:

11 10. Payment of State Plaintiffs' Response Costs for WDI Site and OII  
12 Sites.

13 a. Within ten (10) days of entry of this Consent Decree, Settling  
14 Defendants shall pay \$18,819 to DTSC for Response Costs of DTSC with respect  
15 to the WDI Site.

16 b. Within ten (10) days of entry of this Consent Decree, Settling  
17 Defendants shall pay \$1,000 to DTSC for Response Costs of DTSC with respect to  
18 the OII Site.

19 c. Within 90 days of entry of this Consent Decree, Settling  
20 Defendants shall pay \$15,000 to DTSC for Response Costs of DTSC with respect  
21 to the WDI Site.

22 d. Payments made pursuant to this Consent Decree for the WDI Site  
23 or the OII Site shall be in the form of a certified or cashier's check made payable  
24 to the "Department of Toxic Substances Control", bearing on its face the case  
25 name and number.

26 e. Settling Defendants shall send the certified or cashier's check(s)  
27 to:

28 California Department of Toxic Substances Control  
Accounting Section - Cashiering Unit (FLR 21-1)  
Attention: Cashier  
1001 "I" Street  
P.O. Box 806  
Sacramento, California 95812-0806

1 At the time of payment to DTSC, Settling Defendants shall send notice that  
2 payment has been made to DTSC in accordance with Section XV (Notices and  
3 Submissions.)

4 11. Payment of State Plaintiffs' Response Costs and Natural Resource  
5 Damages for Casmalia Site.

6 a. **Payments to DTSC for Casmalia Site.** Within ten (10) days of  
7 entry of this Consent Decree, Settling Defendants shall pay \$ 1,772 to DTSC for  
8 Response Costs of DTSC with respect to the Casmalia Site. Payments made by  
9 the Settling Defendants to DTSC for the Casmalia Site shall be made by one of the  
10 following methods:

11 (i) by Cashier's or Certified Check sent to:

12 California Department of Toxic Substances Control  
13 Accounting Section - Cashiering Unit (FLR 21-1)  
14 Attention: Cashier  
15 1001 "I" Street  
16 P.O. Box 806  
17 Sacramento, California 95812-0806

18 If payments are made by cashier's or certified check, the check shall  
19 be made payable to the California Department of Toxic Substances Control. The  
20 payment shall indicate the case name and case number.

21 or

22 (ii) by Wire Transfer to the California Department of Toxic  
23 Substances Control, including the following information:

24 1. Name and address of the California Department of Toxic  
25 Substances Control's banking institution to which the transfer  
26 is to be made:

27 Bank of America, Sacramento Government Services, Unit 1436  
28 555 Capitol Mall, Suite 1555  
Sacramento, CA 95814

2. Account number to which the wire transfer should be sent:

Financial Institution: Bank of America, San Francisco, CA  
ABA Routing Number: 0260-0959-3

1 Beneficiary: State of California  
2 Beneficiary Information: State Treasurer's Demand Deposit  
3 Account  
4 Beneficiary Account No. 14 99324597

5 3. Attn: Ellen Day  
6 Government Services  
7 (916) 321-4677

8 If payment to DTSC is made by wire transfer, the Settling Defendant  
9 will need to call the DTSC Accounting Office at (916) 322-5539 or (916) 324-  
10 3099 to notify them that a wire transfer will be sent and provide the Settling  
11 Defendant's name, the amount of the transfer, the case name and case number.

12 **b. Payments to Regional Board for the Casmalia Site.** Within  
13 ten (10) days of entry of this Consent Decree, Settling Defendants shall pay  
14 \$1,086 to the Regional Board for Response Costs of the Regional Board with  
15 respect to the Casmalia Site. Payment to the Regional Board for the Casmalia Site  
16 shall be made by one of the following methods:

17 (i) by wire transfer, including the following information:

18 1. Name and address of the California Department of Justice's  
19 banking institution to which the transfer is to take place:

20 Bank of America, Sacramento Government Services, Unit 1436  
21 555 Capitol Mall, Suite 1555  
22 Sacramento, CA 95814

23 2. Account number to which the wire transfer should be sent:  
24 Financial Institution: Bank of America, San Francisco, CA  
25 ABA Routing No.: 0260-0959-3

26 Beneficiary: State of California, Dept. of Justice  
27 Beneficiary Information: Casmalia Disposal Site/RWQCB  
28 Beneficiary Account No.: 01482-80005

3. Attn: Marilyn Goodridge  
Government Services  
(916) 321-4803

or (ii) by cashier's or certified check, sent to:  
California Department of Justice  
Accounting Section - Cashiering Unit  
Attention: Michelle Lewis  
1300 "P" Street, Suite 810  
P.O. Box 944255  
Sacramento, California 94244-2550

1 The payments shall indicate the name of this civil case name and number.

2           c.     **Payment to DFG for Casmalia Site.** Within ten (10) days of  
3 entry of this Consent Decree, Settling Defendants shall pay \$2,323 to DFG for  
4 Response Costs of DFG and the State Natural Resource Damages Claim with  
5 respect to the Casmalia Site. The Settling Defendants shall make payments to DFG  
6 by cashier's or certified check payable to California Department of Fish and Game  
7 to the following address:

8                     John Holland  
9                     Legal Department  
10                    Office of Spill Prevention and Response  
11                    Department of Fish and Game  
12                    P.O. Box 160362  
13                    Sacramento, California 95816-0362

14           d. Any payment received by any of the State Plaintiffs after 5:00  
15 p.m. Pacific Time will be credited the next business day.

16           e. At the time of any payment to the State Plaintiffs for the Casmalia  
17 Site, each Settling Defendant shall submit copies of the completed Payment  
18 Invoice and a copy of the check or wire confirmation to:

19                     Kimberly Kelley Espinoza  
20                     Senior Legal Analyst  
21                     Office of the Attorney General, Environment Section  
22                     California Department of Justice  
23                     110 W. A Street, Suite 1100  
24                     San Diego, California 92101

## 25 **VII. FAILURE TO COMPLY WITH CONSENT DECREE**

26           12. **Interest on Late Payments and Cure.** If Settling Defendants fail to  
27 make any payment under Paragraph 4 (Payment of EPA Response Costs) or  
28 Section VI (Payment of State Plaintiffs' Response Costs) by the required due date,  
all remaining installment payments and all accrued Interest shall become due  
immediately upon such failure. Interest shall continue to accrue on any unpaid  
amounts until the total amount due has been received. However, if Settling  
Defendants cure a delinquency by making a late payment to EPA within 30 days  
of the required due date, including all of the then-accrued Interest and stipulated



1 penalties as provided for in Paragraph 13, then further stipulated penalties shall  
2 cease to run as of the date the late payment is received, and Settling Defendants  
3 may make future payments to EPA pursuant to the Schedule set forth in Paragraph  
4 4. If Settling Defendants cure a delinquency by making a late payment to DTSC  
5 within 30 days of the required due date, including all of the then-accrued Interest  
6 and stipulated penalties as provided for in Paragraph 18, then further stipulated  
7 penalties shall cease to run as of the date the late payment is received, and Settling  
8 Defendants may make future payments to DTSC pursuant to the Schedule set forth  
9 in Section VI.

10 13. EPA Stipulated Penalty.

11 a. If any amounts due under Paragraph 4 are not paid by the required dates,  
12 Settling Defendants shall be in violation of this Consent Decree and shall pay to  
13 EPA, as a stipulated penalty, in addition to the Interest required by Paragraph 12,  
14 \$5,000.00 per violation per day that such payment is late.

15 b. Stipulated penalties are due and payable within 30 days of the date of  
16 the demand for payment of the penalties by EPA. All payments to EPA under this  
17 Paragraph shall be identified as "stipulated penalties" and shall be made by  
18 certified or cashier's check made payable to "EPA Hazardous Substance  
19 Superfund." The check, or a letter accompanying the check, shall reference the  
20 name and address of the party(ies) making payment, the WDI Site name, the EPA  
21 Region and WDI Site/Spill ID Number 09FY, DOJ Case Number 90-11-2-156/13,  
22 and the civil action number. Settling Defendants shall send the check (and any  
23 accompanying letter) to:

24 Mellon Bank EPA - Region 9  
25 Attn: Superfund Accounting  
26 P.O. Box 371099M  
Pittsburgh, PA 15251

27 c. At the time of each payment, Settling Defendants shall also send notice  
28 that payment has been made to EPA and DOJ in accordance with Section XV  
(Notices and Submissions). Such notice shall reference the EPA Region and WDI

1 Site/Spill ID Number 09FY, DOJ Case Number 90-11-2-156/13, and the civil  
2 action number.

3 d. Penalties shall accrue as provided in this Paragraph regardless of  
4 whether EPA has notified Settling Defendants of the violation or made a demand  
5 for payment, but need only be paid upon demand. All penalties shall begin to  
6 accrue on the day after payment is due and shall continue to accrue through the  
7 date of payment. Nothing herein shall prevent the simultaneous accrual of  
8 separate penalties for separate violations of this Consent Decree.

9 14. If the United States brings an action to enforce this Consent Decree,  
10 Settling Defendants shall reimburse the United States for all costs of such action,  
11 including but not limited to costs of attorney time.

12 15. Payments made under this Section shall be in addition to any other  
13 remedies or sanctions available to Plaintiffs by virtue of Settling Defendants'  
14 failure to comply with the requirements of this Consent Decree.

15 16. The obligations of Settling Defendants to pay amounts owed the  
16 United States under this Consent Decree are joint and several. In the event of the  
17 failure of any one or more Settling Defendants to make the payments required  
18 under this Consent Decree, the remaining Settling Defendants shall be responsible  
19 for such payments.

20 17. Notwithstanding any other provision of this Section, the United States  
21 may, in its unreviewable discretion, waive payment of any portion of the stipulated  
22 penalties that have accrued pursuant to this Consent Decree. Payment of  
23 stipulated penalties shall not excuse Settling Defendants from payment as required  
24 by Section V or from performance of any other requirements of this Consent  
25 Decree.

26 //

27 //

28

1        18. DTSC Stipulated Penalty.

2        a. If any amounts due under Section VI are not paid in the amounts  
3 specified by the required dates, Settling Defendants shall be in violation of this  
4 Consent Decree and shall pay to DTSC, as a stipulated penalty, in addition to the  
5 Interest required by Paragraph 12, \$5,000.00 per violation per day that such  
6 payment is late.

7        b. Stipulated penalties are due and payable within 30 days of the date of  
8 the demand for payment of the penalties by DTSC. All payments to DTSC under  
9 this Paragraph shall be identified as "stipulated penalties" and shall be made by  
10 certified or cashier's check made payable to "Department of Toxic Substances  
11 Control." The check, or a letter accompanying the check, shall reference the name  
12 and address of the party(ies) making payment, the civil case name and number.  
13 Settling Defendants shall send the check (and any accompanying letter) to:

14                California Department of Toxic Substances Control  
15                Accounting Section - Cashiering Unit (FLR 21-1)  
16                Attention: Cashier  
17                1001 "I" Street  
18                P.O. Box 806  
19                Sacramento, California 95812-0806

20        c. At the time of each payment, Settling Defendants shall also send notice  
21 that payment has been made to DTSC in accordance with Section XV (Notices and  
22 Submissions). Such notice shall reference the civil case name and number.

23        d. Penalties shall accrue as provided in this Paragraph regardless of  
24 whether DTSC has notified Settling Defendants of the violation or made a demand  
25 for payment, but need only be paid upon demand. All penalties shall begin to  
26 accrue on the day after payment is due and shall continue to accrue through the  
27 date of payment. Nothing herein shall prevent the simultaneous accrual of  
28 separate penalties for separate violations of this Consent Decree.

//

//

1        19. If State Plaintiffs bring an action to enforce this Consent Decree,  
2 Settling Defendants shall reimburse the State Plaintiffs for all costs of such action,  
3 including but not limited to costs of attorney time.

4        20. Payments made under this Section shall be in addition to any other  
5 remedies or sanctions available to State Plaintiffs by virtue of Settling Defendants'  
6 failure to comply with the requirements of this Consent Decree.

7        21. The obligations of Settling Defendants to pay amounts owed the State  
8 Plaintiffs under this Consent Decree are joint and several. In the event of the  
9 failure of any one or more Settling Defendants to make the payments required  
10 under this Consent Decree, the remaining Settling Defendants shall be responsible  
11 for such payments.

12        22. Notwithstanding any other provision of this Section, DTSC may, in its  
13 unreviewable discretion, waive payment of any portion of the stipulated penalties  
14 that have accrued pursuant to this Consent Decree. Payment of stipulated  
15 penalties shall not excuse Settling Defendants from payment as required by  
16 Section VI or from performance of any other requirements of this Consent Decree.

17                    **VIII. COVENANT NOT TO SUE BY UNITED STATES**

18        23. Covenant Not to Sue by United States. Except as specifically  
19 provided in Section IX (Reservation of Rights by United States), the United States  
20 covenants not to sue or to take administrative action against Settling Defendants  
21 pursuant to Sections 106 or 107(a) of CERCLA, 42 U.S.C. §§ 9606 or 9607(a), or  
22 Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the WDI Site, the OII Site,  
23 or the Casmalia Site. This covenant not to sue shall take effect upon the entry date  
24 of this Consent Decree. This covenant not to sue is conditioned upon the  
25 satisfactory performance by Settling Defendants of their obligations to the United  
26 States under this Consent Decree, including but not limited to, payment of all  
27 amounts due under Section V (Payment of Response Costs), and any amount due  
28

1 under Section VII (Failure to Comply with Consent Decree). This covenant not to  
2 sue is also conditioned upon the veracity and completeness of the Financial  
3 Information provided to EPA and DOJ by Settling Defendants. If the Financial  
4 Information is subsequently determined by EPA to be false or, in any material  
5 respect, inaccurate, Settling Defendant shall forfeit all payments made pursuant to  
6 this Consent Decree and this covenant not to sue and the contribution protection in  
7 Paragraph 45 shall be null and void. Such forfeiture shall not constitute liquidated  
8 damages and shall not in any way foreclose the United States' right to pursue any  
9 other causes of action arising from Settling Defendants' false or materially  
10 inaccurate information. This covenant not to sue extends only to Settling  
11 Defendants and does not extend to any other person.

12 24. Effect of Settlement. This Consent Decree resolves the civil claims of  
13 the United States for the violations of Section 104(e) of CERCLA, 42 U.S.C. §  
14 9604(e), and the Federal Debt Collection Procedures Act with respect to the WDI  
15 Site alleged in the Complaint filed in this action through the date of lodging.

16 **IX. RESERVATIONS OF RIGHTS BY UNITED STATES**

17 25. The United States reserves, and this Consent Decree is without  
18 prejudice to, all rights against Settling Defendants with respect to all matters not  
19 expressly included within the Covenant Not to Sue by United States in Paragraph  
20 23. Notwithstanding any other provision of this Consent Decree, the United States  
21 reserves all rights against Settling Defendants with respect to:

- 22 a. liability for failure of Settling Defendants to meet a requirement of this  
23 Consent Decree;
- 24 b. criminal liability;
- 25 c. liability arising from any future arrangement for disposal or treatment of  
26 a hazardous substance, pollutant, or contaminant at the WDI Site or OII Site by  
27 that Settling Defendant after the effective date of this Consent Decree;
- 28

1 d. liability arising from the past, present, or future arrangement for  
2 disposal or treatment by a Settling Defendant of a hazardous substance, pollutant,  
3 or contaminant outside of the WDI Site, Casmalia Site, or OII Site; and

4 e. liability arising from the past, present, or future arrangement for disposal  
5 or treatment by a Settling Defendant of a hazardous substance, pollutant, or  
6 contaminant at the Casmalia Site that is from a facility or specific location other  
7 than 910 Fornham Ave. or 12354 and 12345 ~~Lakeview~~ Rd., Santa Fe Springs,  
8 California.

9 26. Notwithstanding any other provision in this Consent Decree, the  
10 United States reserves, and this Consent Decree is without prejudice to, the right  
11 to institute judicial or administrative proceedings against Settling Defendants  
12 seeking to compel Settling Defendants to perform response actions relating to the  
13 Casmalia Site, and/or to reimburse the United States for additional costs of  
14 response and/or Natural Resource Damages, if information not currently known to  
15 the EPA is discovered that indicates Settling Defendants no longer qualify as *de*  
16 *minimis* parties at the Casmalia Site because Settling Defendants contributed more  
17 than 8.5 million pounds of materials containing hazardous substances to the  
18 Casmalia Site, or contributed hazardous substances the toxic or other hazardous  
19 effect of which is not minimal in comparison to other hazardous substances at the  
20 Casmalia Site as set forth in the Contaminants List attached as Appendix F.

21 27. Notwithstanding any other provision of this Consent Decree, the  
22 United States reserves, and this Consent Decree is without prejudice to, the right  
23 to reinstitute or reopen this action, or to commence a new action seeking relief  
24 other than as provided in this Consent Decree, if the Financial Information  
25 provided by Settling Defendants, or the financial certification made by Settling  
26 Defendants in Paragraph 49, is false or, in any material respect, inaccurate.

27 //

28

1        28. Notwithstanding any other provision of this Consent Decree, the  
2 United States retains all authority and reserves all rights to take any and all  
3 response actions authorized by law.

4        **X. COVENANT NOT TO SUE BY STATE PLAINTIFFS**

5        29. Covenant Not to Sue for WDI Site and OII Site. In consideration of  
6 the payments that will be made by the Settling Defendants to DTSC under the  
7 terms of this Consent Decree, and except as specifically provided in Section XI  
8 (Reservation of Rights by State Plaintiffs) of this Consent Decree, DTSC hereby  
9 covenants not to sue or to take administrative action against Settling Defendants  
10 pursuant to section 107(a) and 113 of CERCLA, 42 U.S.C. § 9607 and 9613, and  
11 section 7002 of RCRA, 42 U.S.C. § 6972, or the California Health and Safety  
12 Code, sections 25300 *et seq.*, relating to the WDI Site or the OII Site.

13        30. Covenant Not to Sue for Casmalia Site. In consideration of the  
14 payments that will be made by Powerine to the State Plaintiffs under the terms of  
15 this Consent Decree, and except as specifically provided in Section XI of this  
16 Consent Decree, the State Plaintiffs hereby covenant not to sue or to take  
17 administrative action against Powerine pursuant to section 107 and 113 of  
18 CERCLA, 42 U.S.C. § 9607 and 9613, and section 7002 of RCRA, 42 U.S.C.  
19 § 6972, or the State Statutes, relating to the Casmalia Site, including for recovery  
20 of Natural Resource Damages and for response costs incurred or to be incurred by  
21 DFG.

22        31. With respect to present and future liability, these covenants shall take  
23 effect upon the effective date of this Consent Decree as set forth in Section XVII  
24 (Effective Date). These covenants are conditioned upon: a) the satisfactory  
25 performance by Settling Defendants of all their obligations to the State Plaintiffs  
26 under this Consent Decree; and b) the veracity of the Financial Information  
27  
28

1 provided to EPA and State Plaintiffs by Settling Defendants. These covenants  
2 extend only to Settling Defendants and do not extend to any other person.

3 **XI. RESERVATION OF RIGHTS BY STATE PLAINTIFFS**

4 32. The covenants by the State Plaintiffs set forth in Paragraphs 29 and 30  
5 of this Consent Decree do not pertain to any matters other than those expressly  
6 specified in Paragraphs 29 and 30.

7 33. WDI Site and OII Site Reservations. With respect to DTSC's  
8 Covenant not to sue for the WDI Site and the OII Site, DTSC reserves, and this  
9 Consent Decree is without prejudice to, all rights against the Settling Defendants,  
10 with respect to all other matters, including but not limited to:

- 11 a. liability for failure to meet a requirement of this Consent Decree;
- 12 b. criminal liability;
- 13 c. liability arising from any future arrangement for disposal or treatment  
14 of a hazardous substance, pollutant or contaminant at the WDI Site or OII Site by  
15 that Settling Defendant after the effective date of this Consent Decree; and
- 16 d. liability arising from the past, present, or future arrangement for  
17 disposal or treatment by Settling Defendants of a hazardous substance, pollutant,  
18 or contaminant outside of the WDI Site or the OII Site.

19 34. Notwithstanding any other provision in this Consent Decree, DTSC  
20 reserves, and this Consent Decree is without prejudice to, the right to reinstitute or  
21 reopen this action, or to commence a new action seeking relief other than as  
22 provided in this Consent Decree, if the Financial Information provided by Settling  
23 Defendants, or the financial certification made by Settling Defendants in  
24 Paragraph 50, is false or, in any material respect, inaccurate. If the Financial  
25 Information is subsequently determined by DTSC to be false or, in any material  
26 respect, inaccurate, Settling Defendants shall forfeit all payments made to State  
27 Plaintiffs pursuant to this Consent Decree and this covenant not to sue and the  
28



1 contribution protection in Paragraph 45 shall be null and void. Such forfeiture  
2 shall not constitute liquidated damages and shall not in any way foreclose the State  
3 Plaintiffs' right to pursue any other causes of action arising from Settling  
4 Defendants' false or materially inaccurate information.

5       35. Casmalia Site Reservations. With respect to the State Plaintiffs'  
6 covenants not to sue for the Casmalia Site, the State Plaintiffs reserve, and this  
7 Consent Decree is without prejudice to, all rights against the Settling Defendants,  
8 with respect to all other matters, including but not limited to:

- 9       a. liability for failure to meet a requirement of this Consent Decree;
- 10       b. criminal liability;
- 11       c. liability arising from any future arrangement for disposal or treatment  
12 of a hazardous substance, pollutant or contaminant at the Casmalia Site by that  
13 Settling Defendant after the effective date of this Consent Decree; and
- 14       d. liability arising from the past, present, or future arrangement for  
15 disposal or treatment by Settling Defendants, or a subsidiary or affiliated entity of  
16 any Settling Defendant, of a hazardous substance, pollutant, or contaminant at the  
17 Casmalia Site that is both (1) not from a facility or specific location owned or  
18 operated by that Settling Defendant as specified in Appendix E, and (2) not  
19 included in the volume of waste attributed to that State Settling Party as set forth  
20 in Appendix E.

21       36. Notwithstanding any other provision in this Consent Decree, the State  
22 Plaintiffs reserve, and this Consent Decree is without prejudice to, the right to  
23 institute judicial or administrative proceedings seeking to compel any Settling  
24 Defendant to perform response actions relating to the Casmalia Site, and/or to  
25 reimburse the State Plaintiffs for additional costs of response and/or Natural  
26 Resource Damages, if information not currently known to the EPA or the State  
27 Plaintiffs is discovered that indicates Settling Defendants no longer qualify as de  
28

1 minimis parties at the Casmalia Site because Settling Defendants contributed more  
2 than 8.5 million pounds of materials containing hazardous substances to the  
3 Casmalia Site, or contributed hazardous substances the toxic or other hazardous  
4 effect of which is not minimal in comparison to other hazardous substances at the  
5 Casmalia Site as set forth in the Contaminants List attached as Appendix F. For  
6 purposes of this Section only, the volume of material contributed by a Settling  
7 Defendant shall not include any waste sent by an entity merged into or otherwise  
8 acquired by such Settling Defendant after the effective date of this Consent  
9 Decree.

10 **XII. COVENANT NOT TO SUE BY SETTLING DEFENDANTS**

11 37. Settling Defendants covenant not to sue and agree not to assert any  
12 claims or causes of action against the United States, State Plaintiffs or their  
13 contractors or employees, with respect to the WDI Site, the OII Site, the Casmalia  
14 Site, or this Consent Decree, including but not limited to:

15 a. any direct or indirect claim for reimbursement from the Hazardous  
16 Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of  
17 CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other  
18 provision of law;

19 b. any claim arising out of the response actions at the WDI Site, the OII  
20 Site, or the Casmalia Site, including any claim under the United States  
21 Constitution, the Constitution of the State of California, the Tucker Act, 28 U.S.C.  
22 § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at  
23 common law; or

24 c. any claim against the United States or State Plaintiffs pursuant to  
25 Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613.

26 //

27 //

28

1       38. Nothing in this Consent Decree shall be deemed to constitute approval  
2 or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42  
3 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

4       39. Except as provided in Paragraphs 41, 42 and 43 (Waiver of Claims)  
5 and Paragraph 47 (Waiver of Claim Splitting Defenses), the covenants not to sue  
6 set forth in Paragraph 37 shall not apply in the event the United States brings a  
7 cause of action or issues an order pursuant to the reservations set forth in  
8 Paragraph 25 (b), 25 (c), and 25 (e), but only to the extent that Settling  
9 Defendant's claims arise from the same response action or response costs that the  
10 United States is seeking pursuant to the applicable reservation.

11       40. Except as provided in Paragraphs 41, 42 and 43 (Waiver of Claims)  
12 and Paragraph 47 (Waiver of Claim Splitting Defenses), the covenants not to sue  
13 set forth in Paragraph 37 shall not apply in the event the State Plaintiffs bring a  
14 cause of action or issues an order pursuant to the reservations set forth in  
15 Paragraphs 33, 34, and 35, but only to the extent that Settling Defendant's claims  
16 arise from the same response action or response costs that State Plaintiffs are  
17 seeking pursuant to the applicable reservation.

18       41. Waiver of Claims. Settling Defendants covenant not to sue and agree  
19 not to assert any claims or causes of action with regard to the Casmalia Site  
20 pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, for  
21 matters addressed by this Consent Decree, against:

22       a. any Potentially Responsible Parties (PRPs) that EPA may in the future  
23 designate as de micromis, consistent with EPA's Revised Guidance on CERCLA  
24 Settlements with De Micromis Waste Contributors (June 3, 1996), the  
25 Memorandum dated November 6, 2002, entitled "Revised Settlement Policy and  
26 Contribution Waiver Language Regarding Exempt De Micromis and Non-Exempt  
27 De Micromis Parties" and/or other applicable guidance;

28

1       b. any other PRP for a period of thirty-three (33) months after the  
2 effective date of this Consent Decree, at which time Settling Defendants may  
3 assert claims or causes of action against any non-de micromis PRPs that have not  
4 settled their liability for the Casmalia Site;

5       c. any of the defendants in *United States v. ABB Vetco Gray Inc.*, Civ. No.  
6 96-6518-KMW (JGx), that are parties to the Casmalia Consent Decree entered in  
7 that action on June 27, 1997; and

8       d. any person that has entered or in the future enters into a settlement  
9 agreement with the United States, EPA or State Plaintiffs for response costs or  
10 Natural Resource Damages claims for matters addressed in such settlement.

11       42. Settling Defendants agree not to assert any claims and to waive all  
12 claims or causes of action they may have for all matters relating to the OII Site,  
13 including, but not limited to, for contribution, against any person where the  
14 person's liability to Settling Defendants with respect to the OII Site is based solely  
15 on having arranged for disposal or treatment, or for transport for disposal or  
16 treatment, of hazardous substances at the OII Site, or having accepted for transport  
17 for disposal or treatment of hazardous substances at the OII Site, if EPA  
18 determines that: (a) any materials contributed by such person to the OII Site  
19 constituting municipal solid waste or municipal sewage sludge did not exceed  
20 0.2% of the total volume of waste at the OII Site; and (b) any materials contributed  
21 by such person to the OII Site containing hazardous substances, but not  
22 constituting municipal solid waste or municipal sewage sludge, did not exceed  
23 2,100 gallons of liquid materials, or the equivalent, using EPA's conversion  
24 factors. This waiver shall not apply to any claim or cause of action against any  
25 person meeting the above criteria if EPA has determined that the materials  
26 contributed to the OII Site by such person contributed or could contribute  
27 significantly to the costs of response at the OII Site. This waiver also shall not  
28

1 apply with respect to any defense, claim, or cause of action that a Settling  
2 Defendant may have against any person if such person asserts a claim or cause of  
3 action relating to the OII Site against such Settling Defendant.

4 43. Settling Defendants agree not to assert any claims and to waive all  
5 claims or causes of action that they may have for all matters relating to the OII  
6 Site, including, but not limited to, for contribution, against any person that has  
7 entered into a final CERCLA § 122(g) de minimis settlement with EPA or State  
8 Plaintiffs with respect to the OII Site as of the effective date of this Consent  
9 Decree. This waiver shall not apply with respect to any defense, claim, or cause of  
10 action that a Settling Defendant may have against any person if such person  
11 asserts a claim or cause of action relating to the OII Site against such Settling  
12 Defendant.

13 **XIII. FURTHER EFFECT OF SETTLEMENT/**  
14 **CONTRIBUTION PROTECTION**

15 44. Nothing in this Consent Decree shall be construed to create any rights  
16 in, or grant any cause of action to, any person not a Party to this Consent Decree.  
17 Except as provided in Paragraphs 41, 42, 43 and 47 (Waiver of Claims), the  
18 Parties expressly reserve any and all rights (including, but not limited to, any right  
19 to contribution), defenses, claims, demands, and causes of action that they may  
20 have with respect to any matter, transaction, or occurrence relating in any way to  
21 the WDI Site, the OII Site, or the Casmalia Site against any person not a Party  
22 hereto.

23 45. The Parties agree, and by entering this Consent Decree this Court  
24 finds, that Settling Defendants are entitled, as of the date of entry of this Consent  
25 Decree, to protection from contribution actions or claims as provided by Section  
26 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2) - (3), for "matters  
27 addressed" in this Consent Decree. The "matters addressed" in this Consent  
28

1 Decree are all response actions taken or to be taken and all response costs incurred  
2 or to be incurred by the United States, the State Plaintiffs, or any other person with  
3 respect to the WDI Site, the OII Site, and the Casmalia Site, and the State Natural  
4 Resource Damages Claim with respect to the Casmalia Site, except for those  
5 matters expressly reserved herein.

6       46. Each Settling Defendant agrees that, with respect to any suit or claim  
7 for contribution brought by it for matters related to this Consent Decree, it will  
8 notify EPA, DOJ, and the State Plaintiffs in writing no later than 60 days prior to  
9 the initiation of such suit or claim. Each Settling Defendant also agrees that, with  
10 respect to any suit or claim for contribution brought against it for matters related  
11 to this Consent Decree, it will notify EPA, DOJ, and the State Plaintiffs in writing  
12 within 10 days of service of the complaint or claim upon it. In addition, each  
13 Settling Defendant shall notify EPA, DOJ, and the State Plaintiffs within 10 days  
14 of service or receipt of any Motion for Summary Judgment, and within 10 days of  
15 receipt of any order from a court setting a case for trial, for matters related to this  
16 Consent Decree. However, EPA, DOJ, and the State Plaintiffs acknowledge  
17 notice of the claims for contribution already filed by Settling Defendants in  
18 *Powerine, et al. v. Estate of Rothschild, et al.*, Case No. CV 06-0855 (C.D. Cal).

19       47. In any subsequent administrative or judicial proceeding initiated by  
20 the United States or the State Plaintiffs for injunctive relief, recovery of response  
21 costs, or other relief relating to the WDI Site, the OII Site, or the Casmalia Site,  
22 Settling Defendants shall not assert, and may not maintain, any defense or claim  
23 based upon the principles of waiver, *res judicata*, collateral estoppel, issue  
24 preclusion, claim-splitting, or other defenses based upon any contention that the  
25 claims raised by the United States or the State Plaintiffs in the subsequent  
26 proceeding were or should have been brought in the instant case; provided,  
27 however, that nothing in this Paragraph affects the enforceability of the Covenant  
28

1 Not to Sue by United States or the State Plaintiffs set forth in Sections VIII and X,  
2 respectively.

#### 3 **XIV. RETENTION OF RECORDS**

4 48. Until 10 years after the entry of this Consent Decree, each Settling  
5 Defendant shall preserve and retain all records, reports, or information (hereinafter  
6 referred to as "records") now in its possession or control, or which come into its  
7 possession or control, that relate in any manner to response actions taken at the  
8 WDI Site, the OII Site, or the Casmalia Site, or the liability of any person under  
9 CERCLA with respect to these Sites, regardless of any corporate retention policy  
10 to the contrary.

11 49. After the conclusion of the 10-year document retention period in the  
12 preceding paragraph, Settling Defendants shall notify EPA, DOJ and the State  
13 Plaintiffs at least 90 days prior to the destruction of any such records, and, upon  
14 request by EPA, DOJ, or the State Plaintiffs, Settling Defendants shall deliver any  
15 such records to EPA or the State Plaintiffs. Settling Defendants may assert that  
16 certain records are privileged under the attorney-client privilege or any other  
17 privilege recognized by federal law. If Settling Defendants assert such a privilege,  
18 they shall provide Plaintiff with the following: 1) the title of the record; 2) the  
19 date of the record; 3) the name, title, affiliation (e.g., company or firm), and  
20 address of the author of the record; 4) the name and title of each addressee and  
21 recipient; 5) a description of the subject of the record; and 6) the privilege  
22 asserted. If a claim of privilege applies only to a portion of a record, the record  
23 shall be provided to Plaintiff in redacted form to mask the privileged information  
24 only. Settling Defendants shall retain all records that they claim to be privileged  
25 until the United States has had a reasonable opportunity to dispute the privilege  
26 claim and any such dispute has been resolved in the Settling Defendants' favor.  
27 However, no records created or generated pursuant to the requirements of this or  
28

1 any other settlement with the EPA or the State Plaintiffs pertaining to the WDI  
2 Site, the OII Site, or the Casmalia Site shall be withheld on the grounds that they  
3 are privileged.

4 50. Each Settling Defendant hereby certifies individually that, to the best  
5 of its knowledge and belief, after thorough inquiry, it has:

6 a. not altered, mutilated, discarded, destroyed or otherwise disposed of any  
7 records, reports, or information relating to its potential liability regarding the WDI  
8 Site, the OII Site, or the Casmalia Site since notification of potential liability by  
9 the United States or the State Plaintiffs or the filing of suit against it regarding  
10 these Sites and that it has provided all documents and information sought by any  
11 and all EPA requests for information pursuant to Sections 104(e) and 122(e) of  
12 CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42  
13 U.S.C. § 6972;

14 b. submitted to EPA and DOJ and, through EPA, to the State Plaintiffs,  
15 Financial Information that fairly, accurately, and materially sets forth its financial  
16 circumstances, and that those circumstances have not materially changed between  
17 the time the Financial Information was submitted to EPA and DOJ and the time  
18 each Settling Defendant executes this Consent Decree.

#### 19 **XV. NOTICES AND SUBMISSIONS**

20 51. Whenever, under the terms of this Consent Decree, notice is required  
21 to be given or a document is required to be sent by one party to another, it shall be  
22 directed to the individuals at the addresses specified below, unless those  
23 individuals or their successors give notice of a change to the other Parties in  
24 writing. Written notice as specified herein shall constitute complete satisfaction of  
25 any written notice requirement of the Consent Decree with respect to the United  
26 States, EPA, DOJ, the State Plaintiffs, and Settling Defendants, respectively.

27 //

28



1 As to DOJ:

2 Chief, Environmental Enforcement Section  
3 Environment and Natural Resources Division  
4 U.S. Department of Justice (DJ # 90-11-2-156/13)  
5 P.O. Box 7611  
6 Washington, D.C. 20044-7611

7 As to EPA:

8 Chief, Superfund Site Cleanup Branch  
9 United States Environmental Protection Agency, Region IX  
10 75 Hawthorne St.  
11 San Francisco, CA 94105  
12 Re: WDI Superfund Site

13 Russell Mechem  
14 EPA Project Coordinator  
15 United States Environmental Protection Agency, Region IX  
16 75 Hawthorne St.  
17 San Francisco, CA 94105  
18 Re: WDI Superfund Site

19 As to the Regional Financial Management Officer:

20 David Wood, Chief, Cost Accounting  
21 United States Environmental  
22 Protection Agency Region IX  
23 75 Hawthorne St.  
24 San Francisco, CA 94105  
25 Re: WDI Superfund Site

26 As to State Plaintiffs:

27 Sayareh Amir, Chief  
28 Southern California Cleanup Operations  
Department of Toxic Substances Control  
1011 North Grandview Avenue  
Glendale, CA 91201

Caroline Rudolph  
Project Coordinator for the Casmalia Disposal Site  
Department of Toxic Substances Control  
P.O. Box 806  
Sacramento, CA 95812-0806

Roger Briggs, Executive Officer  
Central Coast Regional Water Quality Control Board  
895 Aerovista Pl., Ste 101  
San Luis Obispo 93401

1 Theodora Berger  
2 Senior Assistant Attorney General  
3 Environment Section  
4 Attorney General's Office  
5 State of California Department of Justice  
6 300 South Spring Street  
7 Los Angeles, California 90013-1230

8 As to Settling Defendants:

9 Vincent J. Papa, Esq.  
10 c/o Energy Merchant Corp.  
11 126 East 56<sup>th</sup> Street  
12 33<sup>rd</sup> Floor  
13 New York, NY 10022

14 Albert M. Cohen, Esq.  
15 Loeb & Loeb LLP  
16 10100 Santa Monica Blvd., Suite 2200  
17 Los Angeles, CA 90067

18 **XVI. RETENTION OF JURISDICTION**

19 52. This Court shall retain jurisdiction over this matter for the purpose of  
20 interpreting and enforcing the terms of this Consent Decree.

21 **XVII. EFFECTIVE DATE**

22 53. The effective date of this Consent Decree shall be the date upon which  
23 this Consent Decree is entered by the Court.

24 **XVIII. INTEGRATION/APPENDICES**

25 54. This Consent Decree and its appendices constitutes the final, complete  
26 and exclusive agreement and understanding among the Parties with respect to the  
27 settlement embodied in this Consent Decree. The Parties acknowledge that there  
28 are no representations, agreements or understandings relating to the settlement  
other than those expressly contained in this Consent Decree. The following  
appendices are attached to and incorporated into this Consent Decree: "Appendix  
A" is a map of the WDI Site; "Appendix B" is a map of the OII Site; "Appendix  
C" is a map of the Casmalia Site; "Appendix D" is a list of the Financial  
Information documents provided by the Settling Defendants; "Appendix E" is a

1 Summary of the State Plaintiffs' Settlement Amounts; and "Appendix F" is a list  
2 of contaminants found at the Casmalia Superfund Site.

3 **XIX. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

4 55. This Consent Decree shall be lodged with the Court for a period of not  
5 less than 30 days for public notice and comment. The United States reserves the  
6 right to withdraw or withhold its consent if the comments regarding the Consent  
7 Decree disclose facts or considerations which indicate that this Consent Decree is  
8 inappropriate, improper, or inadequate. Settling Defendants consent to the entry  
9 of this Consent Decree without further notice.

10 56. If for any reason this Court should decline to approve this Consent  
11 Decree in the form presented, this agreement is voidable at the sole discretion of  
12 any party and the terms of the agreement may not be used as evidence in any  
13 litigation between the Parties.

14 **XX. SIGNATORIES/SERVICE**

15 57. Each undersigned representative of a Settling Defendant to this  
16 Consent Decree, the Assistant Attorney General, Environment and Natural  
17 Resources Division of the United States Department of Justice, and the State  
18 Plaintiffs certifies that he or she is authorized to enter into the terms and  
19 conditions of this Consent Decree and to execute and bind legally such Party to  
20 this document.

21 58. Each Settling Defendant hereby agrees not to oppose entry of this  
22 Consent Decree by this Court or to challenge any provision of this Consent  
23 Decree, unless the United States has notified Settling Defendants in writing that it  
24 no longer supports entry of the Consent Decree.

25 59. Each Settling Defendant shall identify, on the attached signature page,  
26 the name and address of an agent who is authorized to accept service of process by  
27 mail on behalf of that Party with respect to all matters arising under or relating to  
28

1 this Consent Decree. Settling Defendants hereby agree to accept service in that  
2 manner and to waive the formal service requirements set forth in Rule 4 of the  
3 Federal Rules of Civil Procedure and any applicable local rules of this Court,  
4 including but not limited to, service of a summons. However, if no agent is  
5 specified, the attorney of record for each Settling Defendant shall be deemed to be  
6 the agent authorized to accept service at the address listed. Settling Defendants  
7 hereby agree to accept service in that manner and to waive the formal service  
8 requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any  
9 applicable local rules of this Court, including but not limited to, service of a  
10 summons.

11 **XXI. FINAL JUDGMENT**

12 60. Upon approval and entry of this Consent Decree by the Court, this  
13 Consent Decree shall constitute a final judgment between and among the United  
14 States, the State Plaintiffs and the Settling Defendants. The Court finds that there  
15 is no just reason for delay and therefore enters this judgment as a final judgment  
16 under Fed. R. Civ. P. 54 and 58.

17  
18 SO ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2007.

19  
20  
21 CONSUELO B. MARSHALL  
22 United States District Judge  
23  
24  
25  
26  
27  
28

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company*, et al., No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5 FOR THE UNITED STATES OF AMERICA *A n n e*

6 Date

RONALD J. TENPAS  
Acting Assistant Attorney General  
Environment and Natural  
Resources Division  
U.S. Department of Justice  
950 Pennsylvania Ave., NW,  
Rm. 2718  
Washington, D.C. 20530 *1 n*

10 *17 Oct, 2007*  
11 Date

KARL J. FINGERHOOD  
Environmental Enforcement Section  
Environment and Natural  
Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611

16 THOMAS P. O'BRIEN  
United States Attorney  
Central District of California

18 MONICA L. MILLER  
Assistant U.S. Attorney

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company, et al.*, No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5 FOR THE UNITED STATES OF AMERICA

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

10/11/07  
Date

Keith Takata  
Director, Superfund Division  
U.S. Environmental Protection Agency  
Region IX  
75 Hawthorne St.  
San Francisco, CA 94105

8/15/07  
Date

Taly L. Jolish  
Assistant Regional Counsel  
U.S. Environmental Protection Agency  
Region IX  
75 Hawthorne St.  
San Francisco, CA 94105

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company*, et al., No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5 FOR THE STATE PLAINTIFFS

6 8/22/67  
7 Date

Hamid Saebfar, Acting Deputy Director  
Site Mitigation and Brownfields Reuse  
Program  
California Department of Toxic  
Substances Control

9 Date

Roger W. Briggs, Executive Officer  
California Regional Water Quality  
Control Board, Central Coast Region

13 Date

Ryan Broddrick, Director  
California Department of Fish and  
Game

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company*, et al., No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
FOR THE STATE PLAINTIFFS

Date

Maureen F. Gorsen, Director  
California Department of  
Toxic Substances Control

8-21-07

Date

Roger W. Briggs, Executive Officer  
California Regional Water Quality  
Control Board, Central Coast Region

Date

Ryan Broddrick, Director  
California Department of Fish and  
Game



1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company*, et al., No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5 FOR THE STATE PLAINTIFFS

6 Date

Maureen F. Gorsen, Director  
California Department of  
Toxic Substances Control

8 Date

Roger W. Briggs, Executive Officer  
California Regional Water Quality  
Control Board, Central Coast Region

11  
12 8/24/02  
13 Date

Ryan Broddrick, Director  
California Department of Fish and  
Game

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company*, et al., No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5  
6  
7 FOR DEFENDANT POWERINE OIL  
8 COMPANY

9  
10 Date: August 6, 2007

11  
12  
13 Michael Egner  
14 Chief Financial Officer  
15 12345 Lakeland Boulevard  
16 Santa Fe Springs, CA 90670

17  
18  
19 Agent Authorized to Accept Service on Behalf of Above-signed Party:

20 Name: \_\_\_\_\_

21 Title: \_\_\_\_\_

22 Address: \_\_\_\_\_

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company, et al.*, No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5 FOR DEFENDANT CENCO REFINING  
6 COMPANY n/k/a LAKELAND  
7 DEVELOPMENT COMPANY

8 Date: August 6, 2007

9 Michael Egner  
10 Chief Financial Officer  
11 12345 Lakeland Boulevard  
12 Santa Fe Springs, CA 90670

13 Agent Authorized to Accept Service on Behalf of Above-signed Party:

14 Name: \_\_\_\_\_

15 Title: \_\_\_\_\_

16 Address: \_\_\_\_\_

1 THE UNDERSIGNED PARTY enters into this Consent Decree in the matter of  
2 *United States v. Powerine Oil Company, et al.*, No. CV04-6435 CBM (JWJx),  
3 relating to the Waste Disposal, Inc., Operating Industries, Inc., and Casmalia  
4 Resources Superfund Sites.

5  
6 FOR DEFENDANT ENERGY  
7 MERCHANT CORP.

8 Date: August 6, 2007

9 Michael Egner  
10 Chief Financial Officer  
11 126 East 56th Street, 33rd Floor  
12 New York, New York 10022

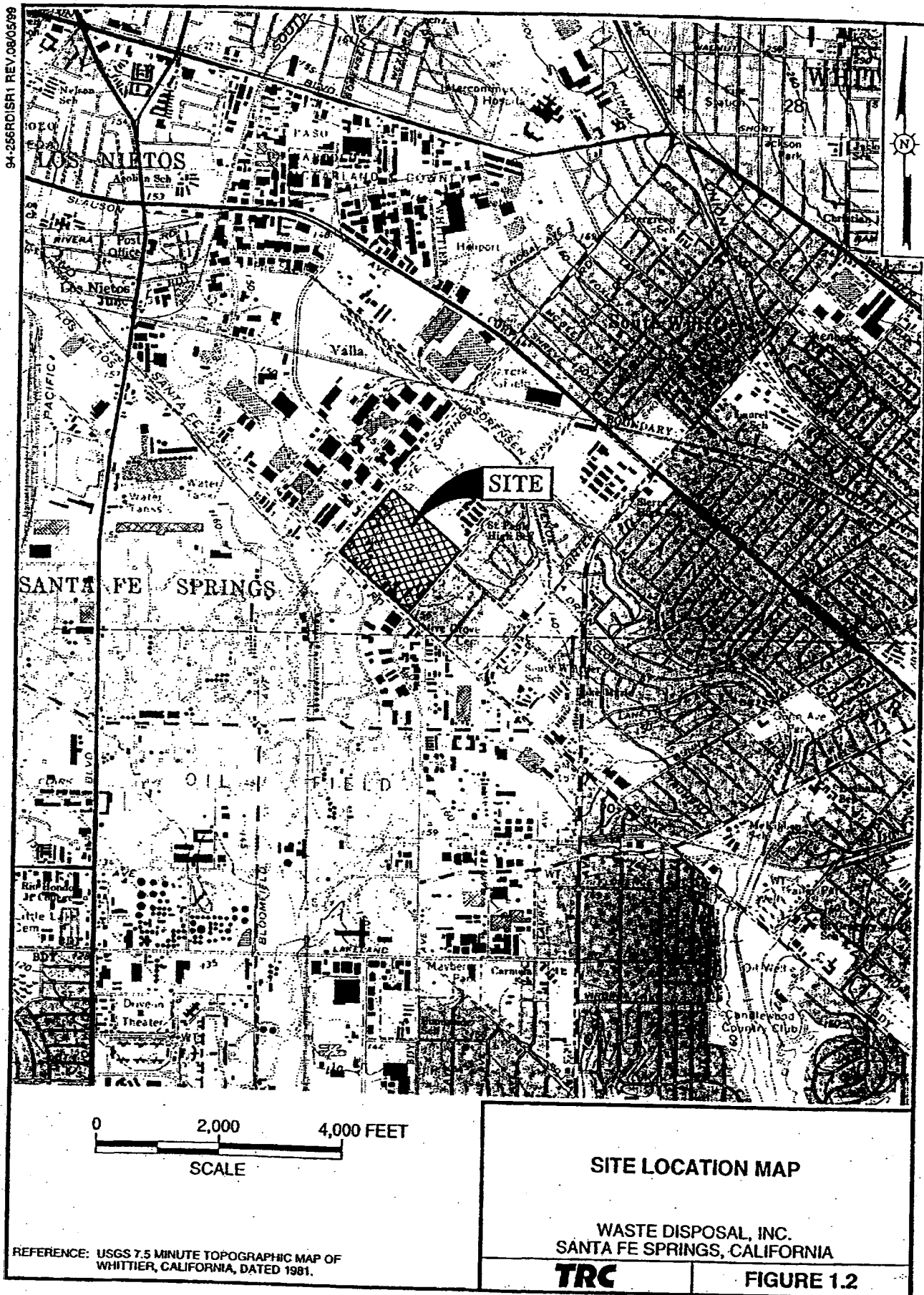
13 Agent Authorized to Accept Service on Behalf of Above-signed Party:

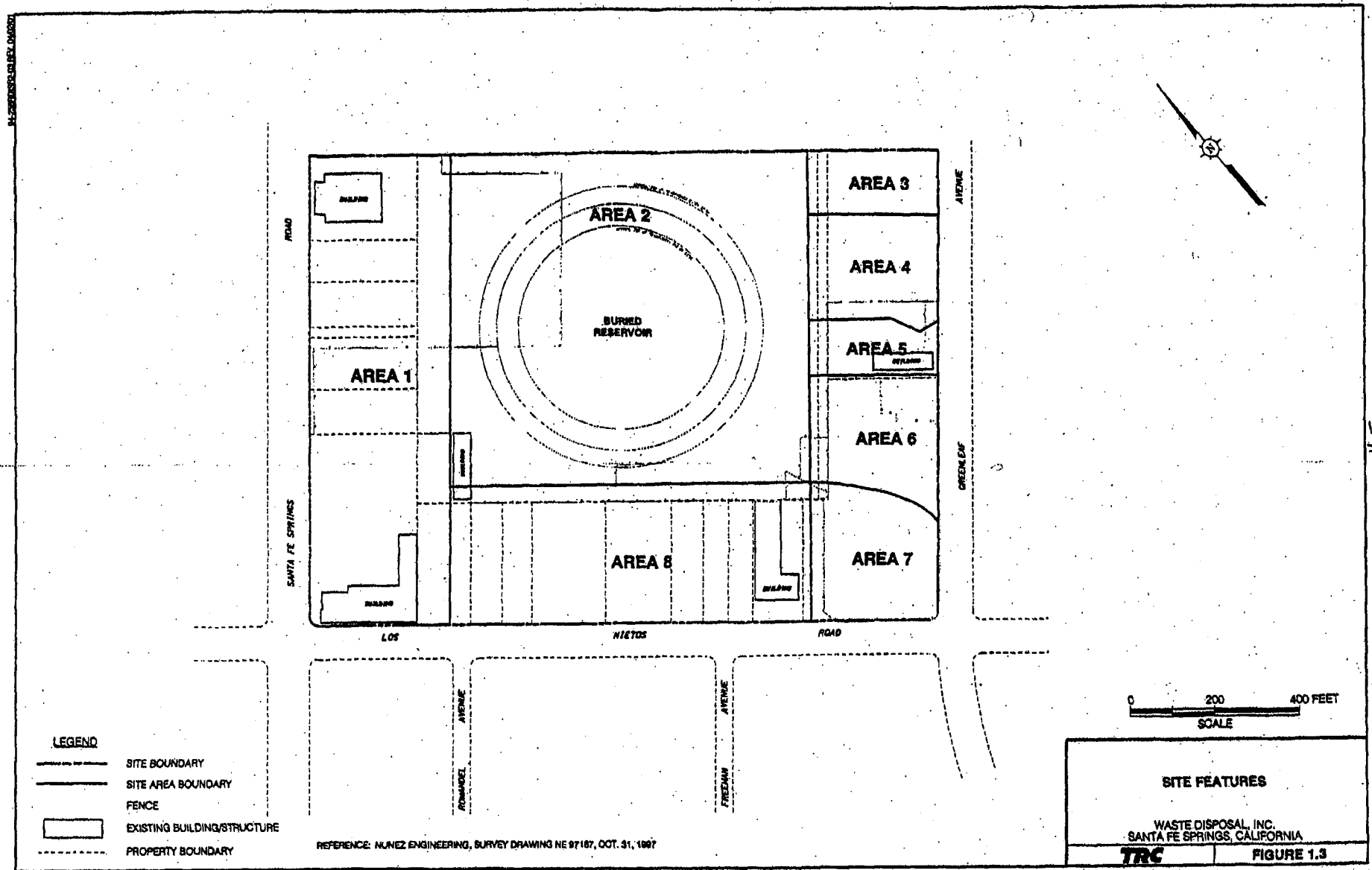
14 Name: \_\_\_\_\_

15 Title: \_\_\_\_\_

16 Address: \_\_\_\_\_

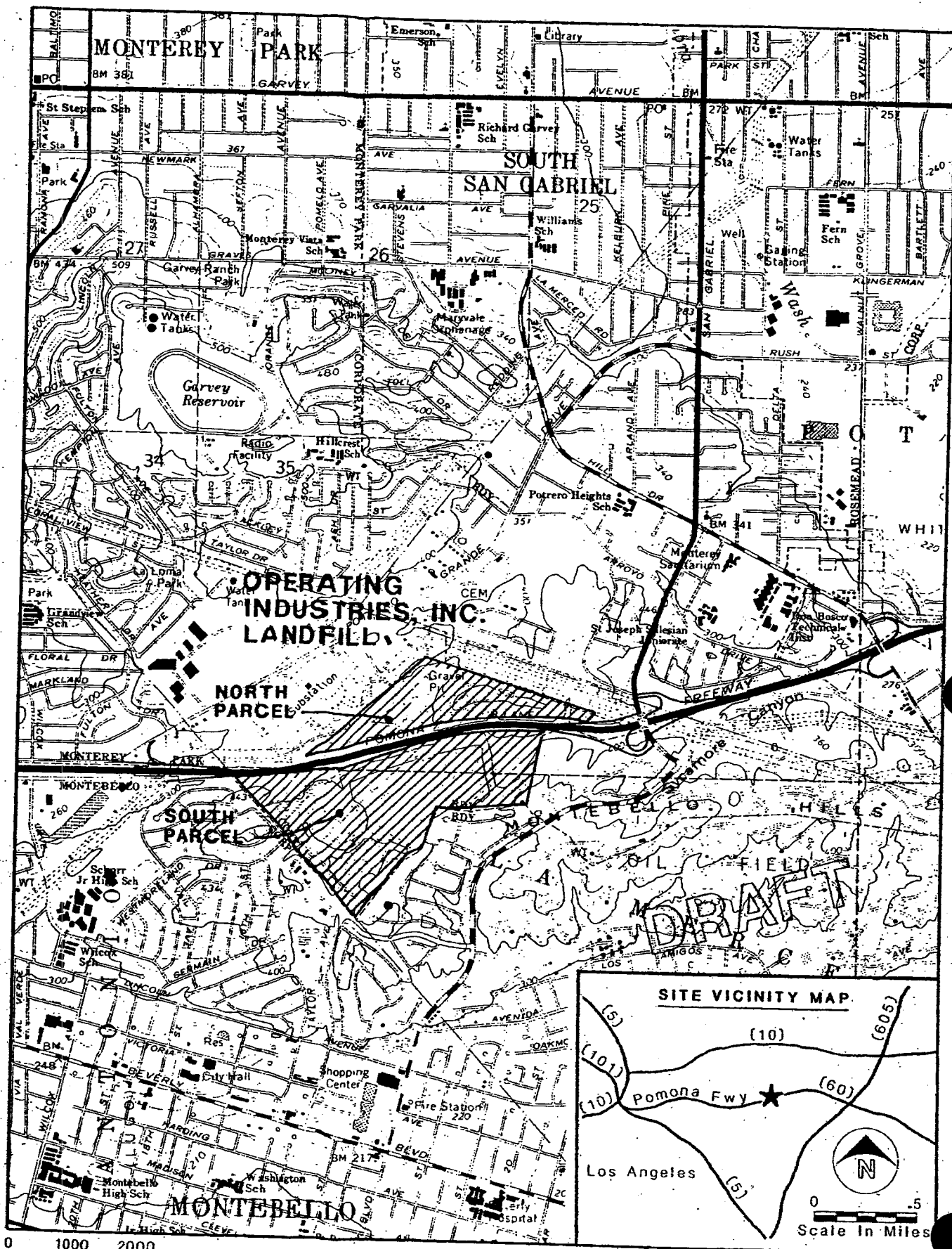
A









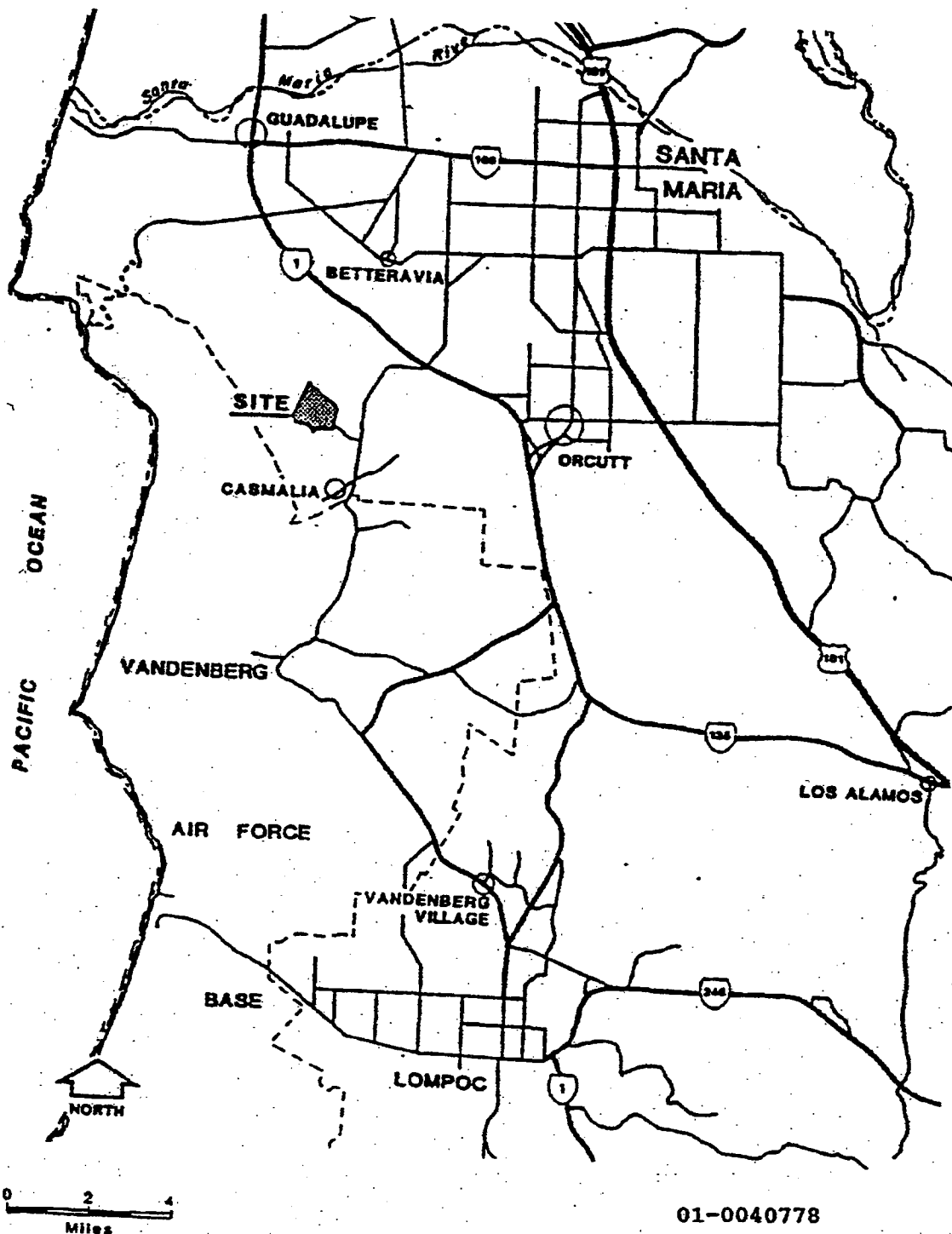


**FIGURE 1**  
**SITE LOCATION MAP**  
**OPERATING INDUSTRIES, INC. LANDFILL**  
**OUGS-GAS MIGRATION CONTROL**



**Figure 1-4**  
**Major Landfill Structures**  
Oil Landfill Remedial Investigation Report

6



01-0040778

SOURCE: CASMALIA RESOURCES (1992)

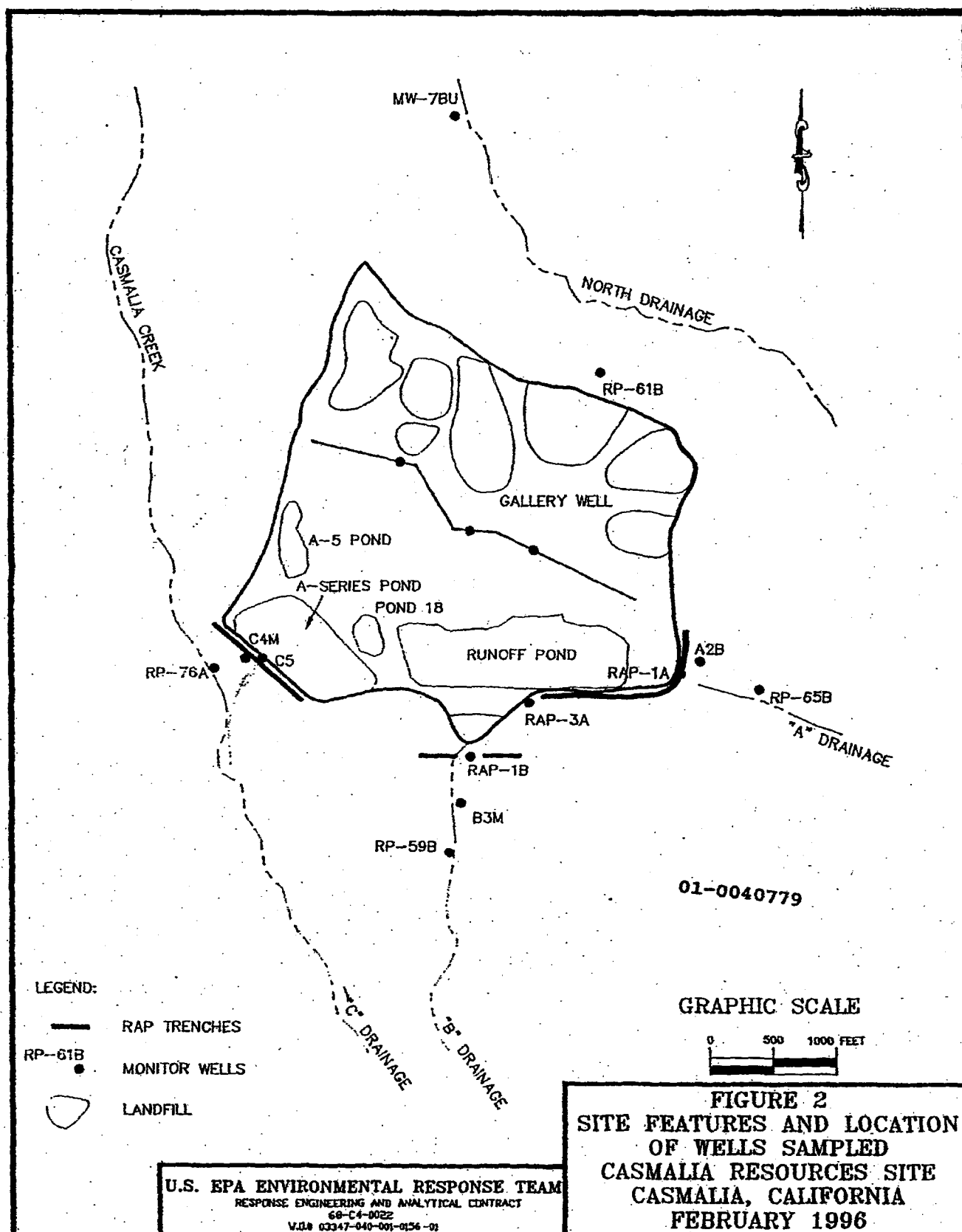
U.S. EPA ENVIRONMENTAL RESPONSE TEAM  
RESPONSE ENGINEERING AND ANALYTICAL CONTRACT  
68-C4-0022  
V.O.S. 03347-040-001-0156-01

FIGURE 1  
SITE LOCATION MAP  
CASMALIA RESOURCES SITE  
CASMALIA, CALIFORNIA  
FEBRUARY 1996

2/1/1996

V156\_FLDVG

2/1/1996





Attachment to Consent Decree for Powerine Oil Company, et al.  
List of ability to pay related documentation

1. Letter from Kenneth W.P. Thomas, Arcadis to David Isola, Isola Bowers LLP with cost estimate table, January 14, 2004
2. Cover sheet for application for parties with limited financial abilities (dated March 30, 2005).  
Enclosures:
  - a. EPA Financial Statement for Businesses, unsigned and undated
  - b. Energy Merchant Group organizational chart
  - c. By-laws of Energy Merchant Corp.
  - d. Consent of Sole Director of Energy Merchant Corp., January 2, 2003
  - e. Consent of Sole Director of Energy Merchant Corp., October 17, 2003
  - f. Consent of Sole Director of Energy Merchant Corp., April 1, 2004
  - g. Consent of Sole Director of Energy Merchant Corp., January 2, 2005
  - h. Consent of Sole Director of Energy Merchant Corp., April 25, 2005
  - i. Certificate of Amendment of Certificate of Incorporation, April 11, 2000
  - j. Citibank account number 45215777, statements for periods ending April 30, 2004 through March 31, 2005
  - k. Combined Financial Statements for two years ending December 31, 1999 through December 31, 2003, Energy Merchant Corporation
  - l. IRS Form 1120, U.S. Corporation Income Tax Return, 1999 through 2003
3. Letter from Albert M. Cohen, Loeb & Loeb to Karl Fingerhood, USDOJ, February 1, 2006, with enclosures:
  - a. Responses to questions and signed verification
  - b. Detail of Trading Gains & Losses, January-December 1999
  - c. EMC Capital Corp. Pioneer Account summary of monthly transactions, years ending December 31, 1999, 2000
  - d. EMC Capital Corp. Refco Account summary of monthly transactions, years ending December 31, 1999, 2000
  - e. EMC Capital Corp. S. Stone Account summary of monthly transactions, years ending December 31, 1999, 2000
  - f. IRS Form 1120, U.S. Corporation Income Tax Return, 1999, for Energy Merchant Corporation
  - g. Financial Statements, December 31, 2001 and 2000, December 31, 2002 and 2001, December 31, 2003 and December 31, 2004 for Energy Merchant LLC
  - h. EMC Securities at Market, as of 12/31/00
  - i. Energy Merchant Corporation Form 1120 US Corporation Income Tax Return Schedule M-1 and M-3 Analysis, 1999 through 2004
  - j. Energy Merchant Corporation Consolidated Balance Sheet, 2002 and 2003
  - k. IRS Form 1065, U.S. Return of Partnership Income, 2002 and 2003, for Energy Merchant Advisory Co., LLC
  - l. IRS Form 1120, U.S. Corporation Income Tax Return, 2003, for Energy Merchant Holding, Inc.

- m. IRS Form 1120, U.S. Corporation Income Tax Return, 2002 and 2003, for EMC Capital Corp.
  - n. IRS Form 1065, U.S. Return of Partnership Income, 2000, 2001 and 2002 for Williams Technologies LLC
  - o. IRS Form 1120, U.S. Corporation Income Tax Return, 2002 and 2003, for Energy Merchant Management Co., LLC
  - p. IRS Form 1065, U.S. Return of Partnership Income, 2002 and 2003, for Energy Merchant Investors Fund, LLC
  - q. IRS Form 1120, U.S. Corporation Income Tax Return, 2003, for Energy Merchant Corp., 2004
  - r. EMC Journal Entries, FYE 12/31/98
  - s. Letter from Leigh R. Fraser, Ropes & Gray, to Vincent Papa, EMC, August 31, 1999, with enclosure: Energy Merchant, LLC secured term note, dated August 31, 1999
4. Letter from Albert M. Cohen, Loeb & Loeb, to Karl Fingerhood, USDOJ, March 13, 2006
  5. Letter from Vincent Papa, EMC to Karl Fingerhood, USDOJ, April 13, 2006, with enclosures:
    - a. Responses to questions and signed verification
    - b. Letter from Karl Fingerhood, USDOJ, to Albert M. Cohen, Loeb & Loeb, April 4, 2006
    - c. Energy Merchant Corp. combined financial statements, December 31, 2005 and December 31, 2004
    - d. Letter from Paris Hajali, BBL, to David Isola, Isola & Associates, March 8, 2006
    - e. BB&T account number 0005153248895, monthly statements for periods ending 03-31-05 through 03-31-06
    - f. Citibank account number 45215777, monthly statements for periods ending February 28, 2005 through February 28, 2006
    - g. Advest account number 3002-3614, monthly account summaries for periods ending March 31, 2005 through February 28, 2006
    - h. Advest account number 3008-5497, monthly account summaries for periods ending March 31, 2005 through February 28, 2006
    - i. Advest account number 3008-5630, monthly account summaries for periods ending March 31, 2005 through August 31, 2005 and October 31, 2005 through January 31, 2006
    - j. Advest account number 3008-5737, monthly account summaries for periods ending March 31, 2005 through January 31, 2006
    - k. Advest client statement, account number WWP-950306, March 31, 2005
  6. Letter from Albert M. Cohen, Loeb & Loeb, to Karl Fingerhood, USDOJ, May 2, 2006
  7. Letter from Albert M. Cohen, Loeb & Loeb, to Karl Fingerhood, USDOJ, May 25, 2006, with enclosures:
    - a. Lakeland Development Company – Overhead Projection (table)
    - b. Environmental Liabilities vs. Available Resources (table)
  8. Letter from Albert M. Cohen, Loeb & Loeb, to Karl Fingerhood, USDOJ, June 28, 2006, with enclosures:



- a. Lakeland Development Company -- Overhead Projection detail (table)
  - b. Memorandum from Mike Abbasfard, Powerine Oil Company, to Al Gualtieri, dated May 9, 1995
  - c. Powerine Oil Company Estimated Pipeline Abandonment Costs (table)
  - d. Powerine Oil Company pipelines (maps)
  - e. Letter from Mark Steffy, Longitude 123, to Edward Sato, Cenco Refining Company, December 17, 2002
9. Letter from Albert M. Cohen, Loeb & Loeb, to Karl Fingerhood, USDOJ, J. Thomas Boer, USDOJ, and Tali Jolish, USEPA, August 23, 2006, with enclosures: Equipment sales agreement dated March 22, 2006

E

Appendix E (Final 05-29-2007)  
Summary of De Minimis Settlement Amounts

Facility Data									
Settling Party	Name	ADDRESS	CITY	STATE	Qty. (lb)	DTSC Payment	Regional Board Payment	DFG/NRD Payment	
POWERINE OIL COMPANY, CENCO REFINING COMPANY, and ENERGY MERCHANT CORP	Powerine Oil Company	910 Fomham Ave	Santa Fe Springs	CA	1,680	\$4	\$2	\$5	
	Powerine Oil Company	12354 Lakeland			811,444	\$1,768	\$1,084	\$2,318	
					813,024	\$1,772	\$1,086	\$2,323	



Appendix F  
Contaminants List

1,1,1-Trichloroethane	1,2-Dibromoethane
1,1,2,2-Tetrachloroethane	1,2-Dichlorobenzene
1,1,2-Trichloro-1,2,2-trifluoroethane	1,2-Dichloroethane
1,1,2-Trichloroethane	1,2-Dichloropropane
1,1-Dichloroethane	1,3,5-Trimethylbenzene
1,1-Dichloroethene	1,3-Dichlorobenzene
1,2,3,4,6,7,8,9-OCDD	1,4-Dichlorobenzene
1,2,3,4,6,7,8,9-OCDF	1,4-Dioxane
1,2,3,4,6,7,8-HpCDD	1,4-Naphthoquinone
1,2,3,4,6,7,8-HpCDF	1,4-Phenylenediamine
1,2,3,4,7,8,9-HpCDF	2,3,4,6,7,8-HxCDF
1,2,3,4,7,8-HxCDD	2,3,4,6-Tetrachlorophenol
1,2,3,4,7,8-HxCDF	2,3,4,7,8-PeCDF
1,2,3,6,7,8-HxCDD	2,3,7,8-TCDD
1,2,3,6,7,8-HxCDF	2,3,7,8-TCDF
1,2,3,7,8,9-HxCDD	2,4,5-T
1,2,3,7,8,9-HxCDF	1,2,3,7,8,9-HxCDF
1,2,3,7,8-PeCDD	1,2,3,7,8-PeCDD
1,2,3,7,8-PeCDF	2,4-D
1,2,3-Trichlorobenzene	2,4-Dichlorophenol
1,2,4-Trichlorobenzene	2,4-Dimethylphenol
1,2,4-Trimethylbenzene	2,4-Dinitrophenol
1,2-Dibromo-3-chloropropane	2,6-Dichlorophenol

Appendix F  
Contaminants List

2-Chlorophenol	Benzyl butyl phthalate
2-Chlorotoluene	Beryllium
2-Hexanone	Beryllium
2-Methylnaphthalene	Beta BHC
2-Nitrophenol	bis(2-Chloroethoxy) methane
2-Picoline	bis(2-Chloroethyl) ether
4,4'-DDT	bis(2-Ethylhexyl) phthalate
4-Chloro-3-methylphenol	Bromide
4-Nitrophenol	Bromobenzene
Acenaphthene	Bromochloromethane
Acenaphthylene	Bromodichloromethane
Acetone	Bromoform
Acetonitrile	Bromomethane
Acetophenone	Cadmium
Aldrin	Carbon disulfide
Allyl chloride	Carbon tetrachloride
Alpha BHC	Chlorobenzene
Aniline	Chloroethane
Antimony	Chloroform
Arsenic	Chloromethane
Barium	Chromium
Benzene	cis-1,2-Dichloroethene

Appendix F  
Contaminants List

Benzo[a]pyrene	cis-1,3-Dichloropropene
Benzo[b]fluoranthene	Cobalt
Benzoic acid	Copper
Benzyl alcohol	Cyclohexanone
DBCP	Hexachlorobutadiene
delta-BHC	Isobutyl alcohol
Di-n-butyl phthalate	Isophorone
Dibromomethane	Isopropyl alcohol
Dicamba	Isopropylbenzene
Dichlorodifluoromethane	Lead
Dichloroprop	m-Cresol
Diesel Range Organics (C12 - C24)	MCPP
Diethyl phthalate	Mercury
Dimethyl phthalate	Methoxychlor
Dinoseb	Methyl ethyl ketone
EDB	Methyl isobutyl ketone
Endrin	Methylene chloride
Ethane, 1,1,2,2-tetrachloro- 1,2-di	Molybdenum
Ethanol	n-Butylbenzene
Ethylbenzene	N-Nitrosodi-n-butylamine
Fluoranthene	N-Nitrosodiethylamine
Fluorene	N-Nitrosodimethylamine
gamma-BHC (Lindane)	N-Nitrosomethylethylamine

Appendix F  
Contaminants List

Hepta-CDDs	N-Nitrosomorpholine
Hepta-CDFs	n-Propylbenzene
Heptachlor	Naphthalene
Heptachlor epoxide	Nickel
Hexa-CDDs	o-Cresol
Hexa-CDFs	o-Xylene
Hexachlorobenzene	p-Cresol
p-Isopropyltoluene	Tetra-CDFs
Penta-CDDs	Tetrachloroethene
Penta-CDFs	Tetrahydrofuran
Pentachlorophenol	Thallium
Phenanthrene	Tin
Phenol	Toluene
Pyrene	Total Petroleum Hydrocarbons as Diesel Fuel
Pyridine	Total xylenes
sec-Butylbenzene	trans-1,2-Dichloroethene
Selenium	Trichloroethene
Silver	Trichloroethylene
Sodium	Trichlorofluoromethane
Styrene	Vanadium
Sulfate	Vinyl acetate
Sulfide	Vinyl chloride
Tetra-CDDs	Zinc